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## **What Business Owners Should Know about the City's Disabled Accessibility Requirements For Retail and Office Spaces**

Business owners are often concerned that making their retail and office space accessible for people with disabilities will cost them a lot and interfere with their opportunity to be profitable. The City's Office on the Disabled works with businesses to minimize the problem while still achieving access for people with disabilities.

Commonly, there are four situations in which a private business has to consider making their space accessible –

- Changing the ownership of the space but not changing the business activity in the space (such as one owner selling a restaurant to another and the new owner not making any significant changes in the space);
- Changing the use of an existing space (such as changing a space from a dress shop to an insurance office);
- Rehabilitation or alterations of an existing space; and
- New construction.

### Changing the ownership of the space but not changing the use

When a new owner purchases a business and just continues its operations without any construction activity except for minor things like repainting, the new owner needs a new Occupancy Permit. A building code inspector will investigate the property but will not exam for accessibility. Accessibility problems will not stand in the way of issuing the new Occupancy Permit.

The Americans with Disabilities Act (ADA) has some requirements for the new owner, but in this situation, the City does not enforce them.

Citizens with disabilities can, on the other hand, ask the new owner and, for that matter, any business owner to make "readily achievable" accessibility improvements. The citizen may also complain to the US Department of Justice, the Missouri Human Rights Commission, or the City's Civil Rights Enforcement Agency. "Readily achievable" is described in the next section.

### Changing the use of an existing space

If a new or existing owner changes the use of a space, for example, changing a space from a dress shop to an insurance office, the building code requires modifications necessary to make the space fully accessible. But, the code has an additional provision that allows the Commissioner on the Disabled to waive solving some or all of those accessibility issues.

The Commissioner on the Disabled has adopted a policy of granting the waiver if the owner does what is "readily achievable" as that term is used in the ADA, that is, "what is easily accomplishable and able to be carried out without much difficulty or expense."

That often involves, for example, changing doorknobs to levers, installing grab bars in restrooms, designating disabled parking spaces in parking lots, purchasing portable ramps at entrances and posting signs inviting a person who needs a ramp to call or knock to get someone's attention to bring the ramp out. The Commissioner is attentive to the amount of work and money otherwise done in the space to determine what is readily achievable to make the space accessible.

Sometimes it is simply not readily achievable to make a business accessible, for example, when an owner is installing a hair salon on a second floor of a building with no elevator. In those cases, the Commissioner does not require installation of an elevator and typically asks the owner to post a telephone number that a person with a disability can call to get the owner's staff to come down to ground level to talk.

### Rehabilitation or Alterations of Existing Space

If it is something like a "gut rehab" of an existing space, then the area being rehabilitated has to be compliant with new construction standards. In that case, the architect submits the design to the Building Division for a Building Permit. The design must comply with the International Building Code (IBC) as adopted by City ordinance.

In addition an accessible pathway to the newly rehabilitated space must comply with accessibility standards. But, there is a complicated exception.

Take a hypothetical. Suppose a business is rehabilitating the second story of a building into office space. Construction in the space, including the restroom, if any, would have to be accessible. But the pathway to the new office space is a set of stairs. The owner is not likely to be required to install an elevator.

That is because of the exception that says that the owner only has to spend up to 20% of the cost of the office rehabilitation on making the pathway to the space accessible. Assume the rehabilitation will cost \$100,000 and the cost of a new elevator will cost \$90,000. Twenty percent of \$100,000 is \$20,000. Therefore, the owner does not have to install an elevator.

There is an added term to this exception. Accessible pathway is defined as the pathway from the curb and parking lot to the rehabilitated space, and the pathway includes not only the physical path but also the restroom, drinking fountain, and pay telephone (if there is one) along the way.

In this hypothetical, if the restroom is in the rehabilitated space it has to meet the standards for new construction. But, if the restroom is outside the rehabilitated space but on a common hallway, then the owner would have to make the restroom accessible, because he can do that for less than the \$20,000 he is not spending on an elevator.

The exception says first make the pathway accessible. Then if you cannot afford to do that, or if there is money left over out of the 20%, then do the restroom, then the drinking fountain and then the public telephone (if there is one), but spending no more than the 20%.

### New Construction

If it is new construction, the architect submits the design to the Building Division for a Building Permit. The design must comply with the IBC as adopted by ordinance.

The IBC has specific design requirements for accessibility among other matters. The accessibility standards under the IBC are very similar to the ADA standards. When an unusual situation arises, the Building Division and the Office on the Disabled often consult to arrive at a joint decision involving the matter.

The Missouri Attorney General estimates that the additional cost for making new construction accessible is approximately 1% of the overall cost. See <http://ago.mo.gov/faqs/Americans-with-Disabilities-Act-ADA.htm>.